

MINUTES
(Subject to approval by the Committee)
Federal Lands Interim Committee
Thursday, September 11, 2014
9:00 A.M.
Kamiah Chamber of Commerce
Kamiah, Idaho

The meeting was called to order at 9:00 a.m. by Cochairman Senator Chuck Winder. Other committee members present included Cochairman Representative Lawrence Denney, Senator John Tippets, Senator Sheryl Nuxoll, Representative Mike Moyle, Representative Stephen Hartgen, Representative Terry Gestrin and Representative Mat Erpelding. Senators Bart Davis and Michelle Stennett were absent and excused. LSO staff members present were Mike Nugent and Toni Hobbs.

Community members that attended the meeting included Charles Graham, Backcountry Hunters and Anglers; Wayne Paradis; Nick Gerhardt; Grandpa John Brandt; Herman Yates; Ken and Diana Godwin; Joann Mider; Lewis Ulmer; Ron Miller, Mining Rights; Kris and George Perry; Lane Mayer; Kathryn Allen; John Baxter; Marge Arnzen; Derek Farr; Lloyd Johnson; Ed Clark; Helen Kettle; Paul and Lorinda Duclercque; Shawn Seubert, Small Butte Construction; Roger and Janice Inghram; Dale Cooper; Kathy Hedberg, Lewiston Tribune; Skip Brandt, Idaho County Commissioner; Jim Chmelik, Idaho County Commissioner; John Smith, Clearwater County Commissioner; Greg Johnson, Lewis County Commissioner; Richard Trout; Joe Robinson; Shelley Dumas, Grangeville City Council; Don Smith, Loggers; Dave Summers and Eric Besaw, Idaho Department of Lands; Mary Ann High; Jerry Zumalt, Pine Tree Community Credit Union; Michelle Perdue; Dale Schneider and Ken Law, City of Kamiah; Dave Hass; Joanne Anderson, Idaho Department of Lands; Stan Celmer; Carol Asher, RBN; Ronald Nielsen Sr.; Ron Nielsen; Gary MacFarlane, Friends of the Clearwater; Mike Hanna, Senator Jim Risch's Office; Galen Hamilton, Logger; Doug Nelson, Blue North Forest Products; Lisa Smith; Shauna Britt and Peggy Seeler, Clearwater County Republicans; David Bodine; Timothy Hicks, Contractor; John Hodge; Tony Snodderly, Senator Mike Crapo's Office; Rebecca Crea; Scott Perrin; Eric Anderson; John Smith, Clearwater County Commissioner; Walt Willis; Deniece Osterberg; Glenda Frye; John Menough, Elk City; Stan Seigler; Carol Asher; Representative Paul Shepherd; Betty Elam, School Teacher; Sharon Jeffery and Jessica Chicoti.

After committee introductions, **Senator Winder** asked for a moment of silence for the victims of the September 11, 2001, attacks.

Mike Nugent, LSO Staff, gave background information on the committee's charge. He explained that the purpose of interim committees is to give the Legislature more time to study a subject that is too complex to complete during the legislative session. This committee is a two-year committee that ceases to exist on November 30, 2014. In order to continue, the next Legislature will have to pass a new resolution or put something in statute. The committee was formed pursuant to the adoption of [HCR21](#) and [HCR22](#) during the 2013 Legislature. He also explained that all information from past meetings is available on the LSO website at: www.legislature.idaho.gov.

Senator Winder explained that this is going to be a long-term process that will probably require a recommendation for some type of land commission to pursue the opportunities that are out there regarding federal land transfers. He noted that a lot of other states are interested in the issue as well and that it is a bipartisan issue across the West. Senator Winder noted that it is not easy and, if the state got all of the federal land back, there would still be endangered species and EPA issues to deal with. He added that the committee wanted to reach out to communities that are impacted by these federal regulations and hear concerns and stories about how they are impacted.

Written testimony was also accepted by the committee and that is posted at:
<http://www.legislature.idaho.gov/sessioninfo/2014/interim/lands.htm>

CHARLES GRAHAM

Mr. Graham stated that he had submitted comments to the committee late last year. The main point of Mr. Graham's testimony was in regard to the last time there was an effort to take over the national forests and BLM from the federal government in 1995. According to Mr. Graham, in response to a bill introduced in the U.S. Senate by Larry Craig and Dirk Kempthorne to transfer 32 million acres of national forests and BLM land to the state, Mr. J.D. Williams, the State Controller, said it would be "ill-advised and a financial disaster." He asked the committee what is different this time around.

Mr. Graham said, in his opinion, a big part of the answer is due to a white paper by a California law professor, Donald Kochan, who proposes a novel reading of Section 7 of the Idaho Admissions Bill, finding a "duty to sell" the remaining public lands, and downplaying the significance both of the language in Section 12 of the Admissions Bill, which states that "The state of Idaho shall not be entitled to any further or other grants of land...", and of the Idaho Constitution, Section 19, Article XXI, that says "The people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof."

He asked whether the committee had obtained an opinion from the Attorney General about the chances that Mr. Kochan's legal argument might ever succeed in court or whether they had asked for the opinion of either Senator Davis or Representative Burgoyne who served on this committee. He went on to say that, "what it all comes down to, despite all the time and effort and testimony from a lot of very smart people who are for and against this idea, is that if it doesn't stand a chance in court – and as a lawyer for 25 years I don't think it does – we're all wasting our time. And it's time for the lawyers, from the Attorney General to those in the Legislature, to tell it straight - to us citizens and to your fellow legislators."

In conclusion, **Mr. Graham** urged the committee not to throw more tax money into the long, drawn out legal battles that are sure to come if Idaho pushes for state control. In his opinion these are fights the state is very unlikely to win. He said instead of ending up with legal gridlock, the state should have problem solving and collaboration for the public good.

WAYNE PARADIS

Mr. Paradis is a 40-year resident of Idaho, and when he moved here he was appalled to see large-scale timber harvest on the national forest. The huge clear-cuts had no streamside protection. The slash was piled using a dozer while displacing precious topsoil. Then the harvest units were burned too hot, further impacting the soil and residual vegetation. Roads were built on unstable slopes with inadequate drainage.

Mr. Paradis began working with the U. S. Forest Service in 1975 and witnessed real progress in their land management practices. Landscape ecology was first talked about, then implemented. The importance of fire in shaping and maintaining the environment was integrated into management plans. Streams were protected and logging practices improved.

He spoke in opposition to state management of the national forest. In his opinion, federal lands must be managed by the leading land management agency in the world, the U.S. Forest Service. These wilderness and multiple-use lands support clean water, air, and wildlife while providing goods and services to this community along with the rest of the U.S. citizens to which it belongs. He believes that the state does not have the resources, financial or otherwise, to properly manage the complex landscape that is our national forest.

MARGE ARNZEN

Marge Arnzen commented that federal ownership of lands in Idaho is ruining our economy. It is proven that Idaho makes money from forest lands being managed by the Idaho Department of Lands. Lands being managed by the federal government lose money. The federal system is broken. Federal lands in Idaho are not healthy and every year are being devastated by costly fires. While

this continues to go on, there is less logging, grazing and recreation and at the same time more lands are being locked up.

In her opinion, the state cannot afford not to have the federal lands transferred back to the state. Having these lands would allow the state to support schools and run county governments without getting money from the federal government. The economy would grow and put people back to work. So the state and counties would receive more tax money from these taxes being paid by business and the workers. Taking back the federal lands could only be a win-win situation for Idaho.

DEREK FARR

Mr. Farr spoke against the transfer of public lands and submitted letters from others who oppose such land transfer. He commented that many people stay here because of Idaho's federal lands.

Since the federal government doesn't pay taxes, proponents of a land transfer often say that county governments are being cheated out of their rightful tax base. They argue that if the land was privately owned, the property tax windfall would fund our schools and pave our roads. According to **Mr. Farr** there is just one problem: If the state gains control of the federal lands, it won't pay property taxes. And the only way to change that is through privatization. He emphasized that privatization is a very real and alarming concern.

He added that the argument that there would be no need to worry about the price of firefighting when the state owns the land because the state's management of those lands will reduce the size and frequency of fires is false. Less than a month ago, Idaho Department of Lands Director Tom Schultz reported to the State Land Board that while the state owns less than 4.5% of Idaho's land, it was responsible for a 25% of the state's wildfire acreage. Clearly, wildfires pay no attention to who owns the land. There is a legitimate concern that if Idaho owned all the federal lands, one moderate fire season could bankrupt the state. There is also a legitimate concern that the most expeditious remedy to that financial crisis would be a liquidation of the lands.

In conclusion, **Mr. Farr** commented that whatever recommendation this committee makes to the Legislature next year, "I deeply hope that the public's fear of losing public lands to privatization is fully addressed and extraordinary measures are taken to ensure it never happens."

SKIP BRANDT

Skip Brandt, Idaho County Commissioner, spoke in favor of the transfer of federal lands because the federal system is broken. He said this is not due to the local on-the-ground Forest Service folks; it is the system that they are mandated to follow that makes the cost of timber sales more than they can make. It costs the federal government more money than they can make with all the costly hoops they are mandated to jump through (cost \$.06 per harvested acre, state makes \$55.00 per harvested acre).

In response to the argument that the state could never afford to spend as much as the federal government does, **Mr. Brandt** asked how can anyone with any common sense think that the state would spend as much as the federal government does -- on any process.

He noted that the state made \$54 million last year. If that is the case, he asked would it not stand to reason that if the state had 10 times the acres they would not make 10 times the money.

The last argument against the transfer of state lands is that the state would sell off the land to the highest bidder. He asked the following questions:

1. How could the private sector (highest bidder) afford fire suppression if the state of Idaho could not?
2. What would be the benefit to the state if they have to return 95% of the sale back to the federal coffers?

He emphasized that when the state fights fires and sells timber, it makes a profit and it provides living wage jobs. The private sector also makes money on private timber lands. Only the federal government can lose money on timber lands.

His support for the transfer begins with growing up in the Clearwater Basin. The area had one of the richest school districts because of the 25% funds that the schools would receive from the timber cut. And only every once in a while there would be a smoky day where you could not see the mountains around the valley. Now we have those conditions on a regular basis, and to the point that we cancel outdoor activities because of smoke. Because back then we had good land management. **Mr. Brandt** added that we are losing access to the forest every year. As the federal Forest Service appropriations get less and less, the local Forest Service is going to have less personnel on the ground.

He noted that he and four other county commissioners in Idaho initiated the Community Forest Trust Concept, which U.S. Congressman Labrador introduced last year in HB1526.

He is a member of the Clearwater Collaborative that is trying to move forward to work together under federal guidelines. They want to open the door to allow the Forest Service to manage the land properly. According to **Mr. Brandt**, the federal agents cannot manage the land because it is too expensive. He stated that the federal budget is projected to be half of what it is now in three years. At that point, they will only be able to focus on fire suppression. The state should step up and move forward to answer the concerns that have been heard. Questions need to be answered with regard to how states could be able to afford, control and enhance the lands.

JIM CHMELIK

Jim Chmelik, Idaho County Commissioner, encouraged the committee to join Utah and to fight for the transfer of federal lands to Idaho. He noted that 67% of our land is owned by the federal government. He commented that Section 19, Article 21 of the Idaho Constitution, which says we forever disclaim the rights to the land, also says until the federal government disposes of it. He said that this is just a quitclaim title and that Idaho is not a free state when the federal government owns this much land.

SHELLEY DUMAS

Shelley Dumas, Grangeville City Council, spoke against the transfer on behalf of public lands. She grew up in Idaho and has always loved the forest. She commented that many of the areas she loved are on state-owned land that has now been clear-cut and not maintained. In her opinion the Idaho Department of Lands has inadequate resources and expertise to manage additional acreage, handle firefighting responsibilities or manage multiple use objections. **Ms. Dumas** closed by saying that federal public lands were set aside as a perpetual gift and investment for all Americans and asked that the committee not mess with that legacy.

DON SMITH

Don Smith spoke in support of the transfer of federal land to the state. He is supportive of this because, as a logger from south of the Salmon River, he sees the state-owned property being handled in a very businesslike manner. He noted that there is concern that they will run out of state lands to log so logging on public lands managed by the state and private lands is being accelerated to take advantage of the mills while they still exist.

Mr. Smith added that forest fires started by the Forest Service when conditions are not right cause entire forests to burn out of control. He said that the state should not be afraid to manage our own lands. Cutting timber and selling logs will help create jobs in the state and proper thinning of dead trees that exist today will reduce the risk of fire.

Senator Nuxoll asked why the state was clear-cutting and how long that will last. **Mr. Smith** said he feels that the end is imminent and that they will run out of available trees very soon.

MICHELLE PERDUE

Michelle Perdue said that she understood the need for this committee. She commented on the need to support communities and jobs and said that we have become complicit in the fact that society has taught us to always expand and get bigger. There used to be selective logging and now logging practices are horrible. Ground cover is stripped and soil is just left so that it will blow away, and it is very destructive. She said that trees are pulled from ravines by dragging them so that pulls up other plants that could help if there were heavy rains, and slash piles are left that will be burned. She said she is not against logging but it needs to be done responsibly. She added that she does not think the state can afford to do this due to lawsuits, the expense of upkeep on roads, firefighting and air-quality issues.

MARY ANNE HIGH

Mary Anne High opposes the transfer of federal lands for the following reasons:

- The state does not have the funds to properly manage these vast lands.
- The state would have to raise money in order to acquire the needed funds. Either they would have to significantly raise taxes on all citizens or they would have to sell off most of the acquired lands.
- Since a significant tax increase would not be supported by citizens, divesting of acquired public lands would be the expected outcome.
- When the public lands are sold into private holding, the public will lose access to all accustomed recreational activities.
- The highest monetary value for the federal lands would be in housing developments preceded by timber removal. The best places to site homes are also critical winter range for elk and deer. They depend on the low elevation, relatively snow-free zones, with warm aspects to find food and survive the winter. The animals migrate to these places from long distances. These areas also make the best home sites and where forests would be logged, roads would be built and housing developments constructed.
- The public lands, including the vast contiguous wilderness areas in our state, together with the incomparable wild rivers, are what make this state unlike any other in the Lower 48.
- This uniqueness is what we should be focused on when envisioning where our economic future lies.
- Does it lie in short-term economic gain for a handful of individuals that stand to make a killing on timber and real estate? Or is the real value in perpetuating the assets that are rare and unique here that could answer our economic needs for the long term?
- We have a large, untapped, worldwide recreational market, and the opportunity to develop that in the future will not exist without public lands.

GARY MACFARLANE

Gary MacFarlane spoke against the transfer of federal lands to the state. He commended that Ted Trueblood led the charge in the late '70s and '80s to steal the legacy of public lands from people. He said that these lands are held for all the public. He noted that the only entity that has any claim to lands other than all people would be the Nez Perce Tribe.

DOUG NELSON

Doug Nelson is a resource manager for a local mill and a logger. He commented that the system is broken. He said that there are a lot of good managers who want to do what is right but they feel that their hands are tied. In his opinion, if the state takes over the lands, it will have to manage with a different set of rules than exist today with the federal government. The whole system is broken and needs to be changed. There is currently a fire in the Selway and, in his opinion, if the state was in charge, that would have been out really quickly. The state uses best-management

practices. Logging is ugly at first but once a place is logged and replanted, it grows back; it just takes longer to grow back than other crops. He said he has no problem with Idaho Department of Lands managing the lands.

LISA SMITH

Lisa Smith grew up in a logging camp in the early '70s and has been married to a logger for years. She has adult children that would like to be able to live in the area and have good jobs and raise their families. She clarified that the area is not running out of trees, it is just running out of sales. She lives in Riggins and commented that people are retiring to the area to enjoy the public lands, not to make a living.

SHAUNA BRITT

Shauna Britt spoke in favor of the transfer. She stated that there is a lot of overshadowing between the environmentalists and those who live and work here. She owns a small medical office and said that many people can not afford health care. In her opinion, the lands need to be used to create jobs and take advantage of and harvest wood instead of burning it down. She added that instead of earning our own money on the land, the state is relying on the federal government to provide funds, and that comes with strings attached. She noted that many people who are not testifying want the state to own the land. **Peggy Seeler** agreed with **Ms. Britt**.

DAVID BODINE

David Bodine owns a farm in Grangeville. He commented that the line item for the fire budget seems to be set at the end of the fire season, and that could become a negative to the state. He emphasized that something that needs to be figured out. He is encouraged by the job that the Clearwater Timber Protective Association does when lightning strikes – they put the fire out quickly. **Mr. Bodine** added that does not mean the Forest Service is doing bad job, it's just that their hands are tied. Mother Nature is tough to deal with. Currently the state lands provide timber and that timber is running out. He also said that if the federal land goes to the state, the environmentalists will switch gears and tie up the state instead of the federal government. He also expressed concern that if the state gets title to the land it will become an asset to be sold for a budget (an example is lakefront properties) and once sold, you can't go back. He loves the opportunity to take friends up to see how beautiful the land is.

SCOTT PERRIN

Scott Perrin stated that when the land was a territory and then became a state, it made sense for the federal government to manage land due to the terrain and population. The other states east of Colorado received their deeds back so they would have equal footing or equal land rights just as the original 13 colonies. The biggest question is: "Is Idaho going to be an equal or on equal ground like unto the original 13 colonies that became states, and alike the 35 states east of Colorado, or not?" Otherwise this really isn't the "United States" as in terms projected so many years ago."

In his opinion, step one is to acquire the deed. Then manage the ground, or leave federal entities to manage the land, or a neighboring state to manage the land. He said that, in reality, this is what is going on.... "the state" of the District of Columbia has been left to managing. With deed, we can, then and only then, as rightful owner, hold accountability those who are managing the land.

ERIC ANDERSON

Eric Anderson, who works for the Forest Service in Bonners Ferry, spoke about collaboration. He said that the Kootenai Resource Initiative seems to be working together to find solutions. He asked that everyone give the Forest Service a break and that its people are just trying to do their job, given the circumstances. In his opinion, the transfer of federal lands to Idaho does not legally stand a chance. For one thing, there is a huge funding hurdle. Idaho citizens will not be pleased when taxes go up because the state has to fight forest fires, not the federal government. There is a lot of

land being tied up in litigation but there are four collaboratives and they are not being sued. Timber is coming out of those forests and there are other restoration projects that affect fire and water and give people jobs in those areas. He noted that very few regular citizens are talking to the federal agencies or commenting on Forest Service projects. He urged communities to get involved because when communities get involved, things happen.

JOHN SMITH

John Smith, Clearwater County Commissioner, spoke in favor of collaboration. He noted that the roads were initially put in place to get resources out, not so people can go hunting, fishing, hiking and camping. In order to keep people living here, there needs to be jobs here. The environmental process of stopping everything is not the answer; collaboration is necessary and getting involved is the first step.

RON NIELSEN

Ron Nielsen said he has been studying the western land issue for six years and there is a lot of discussion that does not even touch what is really going on. The issue is not people's opinion, it is understanding the equal footing doctrine. In the eastern states, the land is state-owned. He stated that this could be a non-winner in court, but it has not been approached correctly. For Idaho to claim that it is a state on equal footing, it has to own the land.

WALT WILLIS

Walt Willis said that he had no opinion when he came to the meeting, but after listening he has come to the conclusion that it cannot be all state or all federal government. When the federal government first controlled the lands, that was good because there was not enough population to handle it. Today that is different.

DENIECE OSTERBERG

Deniece Osterberg commented that in working with government bureaucrats there is no practicality. What looks good on paper or a map does not always work in reality. She said that local people know the area best. In her opinion, the federal government should hand the land over to the state and put the counties in charge of management.

TIMOTHY HICKS

Timothy Hicks commented that Idaho has a balanced budget and that is good. He noted that the people of Idaho have a vested interest in the land and are best suited to take care of it. If the federal government had a balanced budget and could afford to manage the lands properly, that would be okay. Unfortunately, they do not.

GLENDA FRYE

Glenda Frye said that this group is an example of local communities coming together. She asked whether people have more trust in local control or in letting the federal government be in control.

RONALD NIELSEN SR.

Ronald Nielsen Sr. said that in Nevada the Forest Service had sold water rights to Native Americans for monetary gains. He is afraid that this could happen in Idaho and said that water is a precious commodity.

JOHN MENOUGH

John Menough said that as a newcomer to Elk City, Idaho, ten years ago, he is concerned about forest management and policy changes occurring within the Forest Service. Everyone wants access to the land and all he sees is that the Forest Service is locking up that land. Currently, if a road is not marked, it is considered closed. He said they are also putting gates on and locking roads.

This is a problem if there is a fire. He also noticed that this summer during the fires, crews were doing nothing to protect timber, they were just protecting homes and such. In his opinion, Idaho needs to control what happens in our state.

CAROL ASHER

Carol Asher stated that it is a weakness of people that have been raised and trained to fall into the trap of obeying and deferring to government too much. She said that local control is very important. She compared the federal government ownership of the land to "Agenda 21" and sustainable development. Agenda 21 is a nonbinding, voluntarily implemented action plan of the United Nations with regard to sustainable development. It is a product of the UN Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil, in 1992. According to the Agenda 21 authors, the objective of sustainable development is to integrate economic, social and environmental policies in order to achieve reduced consumption, social equity, and the preservation and restoration of biodiversity. Sustainablists insist that every societal decision be based on environmental impact, focusing on three components; global land use, global education, and global population control and reduction. See more at: <http://americanpolicy.org/agenda21/#sthash.lwOpByk5.dpuf>

PAUL DUCLERCQUE

Paul Duclercque worked for the Selway Ranger District in the 1980s. He had a job monitoring the turbidity of the water for logging operations. He thought this type of study might be helpful for the committee.

STAN SEIGLER

Stan Seigler moved to Idaho four year ago from South Carolina. He said that about ten years ago he was looking in Washington State to buy land to be able to keep his family close together. There was nothing available in Washington, so they researched where to go around the world (concerned about the world situation). They saw an ad about Kamiah so they bought some land that was corporation-owned land that was taken care of properly. He emphasized that his family came to Idaho and this specific county because of what is here. He is lucky because he has two sons that live here; one works online for a company in Iowa and the other fixes dental equipment that is shipped in. In his opinion, if the state had control of the lands, it could create more jobs in the area.

"GRANDPA" JOHN BRANDT

"Grandpa" John Brandt commented that the state would manage the lands better than anyone and the closer to the ground the better.

REPRESENTATIVE PAUL SHEPHERD

Representative Paul Shepherd commented on the cost and revenue end of the situation. He said that the state has managed land for 100 years and last year \$50 million was given to the endowment fund for education with only 6% of the land. He asked how much would that be if the state had 100% of the land. He said that the people of Idaho do not want to just cut down the forests. He grew up here and always cuts with great care. He said this is the second most important thing that the state has done. He noted that chances are better with collaboration with other states that are working on this goal.

BETTY ELAM

Betty Elam commented that at one time the state received \$20 million from the federal government from forests. She said that at that time, the forests were replanted and more trees grew. Today she sees many trees that are dead and just waiting to burn. She said that if Utah can do this, Idaho should be able to do it, too.

Senator Winder noted that Utah has not taken their land back, they have just demanded it.
The meeting was adjourned at 11:30 a.m.